

House Bill 898

By: Representatives Hembree of the 67th, Millar of the 79th, Fludd of the 66th, and Kidd of the 115th

A BILL TO BE ENTITLED
AN ACT

To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to enact "The Access to Postsecondary Education Instructional Material Act"; to provide for definitions; to provide for requests to publishers for electronic versions of instructional material; to provide for duties of publishers; to provide for counseling, agreement, and reasonable precautions to avoid violating copyright laws; to provide for construction; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by adding a new Chapter 3A to read as follows:

"CHAPTER 3A

20-3A-1.

This chapter shall be known and may be cited as 'The Access to Postsecondary Education Instructional Material Act.'

20-3A-2.

As used in this chapter, the term:

(1) 'Electronic version of instructional materials' means a format of instructional materials that preserves the structural integrity of such materials; uses the most updated software technology available to the public at that time; includes corrections and revisions as may be necessary; and is compatible with commonly used Braille translation, software, large print, screen enlargement, screen reading and recognition systems, and speech synthesis software.

(2) 'Institution' means any part of the university system, as set forth in Code Section 20-3-50, any private postsecondary educational institution defined as 'nonpublic' in Code Section 20-3-250.2, any proprietary school as defined in Code Section 20-3-250.2, any junior college as defined in Code Section 20-3-131, or any school or program under the authority, management, or operational control of the Department of Technical and Adult Education.

(3) 'Instructional material' means textbooks and other materials which are recommended or required by an instructor of any course of study offered for credit or toward a degree or certificate by any institution subject to the requirements of this chapter, are written or published by a publisher primarily for use by students, and are available for purchase. The term also includes nonprinted instructional materials which are subject to the accessibility standards of Section 508 of the Rehabilitation Act, 29 U.S.C. Section 794, which includes but is not limited to commercially published software programs, videodisks, and video and audiotapes.

(4) 'Publisher' means the person or entity which prints and issues a textbook or other instructional material that is generally available for purchase by the public and the person or entity which offers for sale material available for purchase primarily by students.

(5) 'Structural integrity' means all of the commercially published printed instructional material, including but not limited to the text of the material, sidebars, the table of contents, chapter headings and subheadings, footnotes, pictures, illustrations, graphs, charts, indexes, glossaries, and bibliographies.

(6) 'Student with a print access disability' means a student requiring accommodations in accordance with Section 504 of the Rehabilitation Act, 29 U.S.C. Section 794, or the Americans with Disabilities Act of 1990, 42 U.S.C. Sections 12101 et seq., including but not limited to students who are blind, are visually impaired or have a specific learning disability, or other disability affecting reading.

20-3A-3.

(a)(1) An institution shall make a written request for a student with a print access disability to a publisher of instructional material for an electronic version of instructional material that is recommended or required for a course of study or program offered by an institution in which the student is enrolled, as determined by the instructor for the course or program in consultation with the person who signs the request pursuant to subparagraph (D) of paragraph (2) of this subsection.

(2) A written request for an electronic version of instructional material shall:

(A) Certify that the student for whom the material was requested has a print access disability which prevents him or her from using standard printed instructional material;

(B) Certify that the electronic version of the instructional material is for use by the student with a print access disability in connection with a course of study or program in which the student is enrolled at the institution;

(C) Certify that the instructional material has been purchased by or is being purchased for the student; and

(D) Be signed by a person at the institution who is responsible for coordinating services for students with print access disabilities or who is responsible for monitoring compliance with the Americans with Disabilities Act of 1990.

(b)(1) A publisher who receives a request for an electronic version of instructional material complying with subsection (a) of this Code section shall be required to provide such electronic version to the institution within ten days, unless such request creates an undue hardship, as defined in the Americans with Disabilities Act of 1990, 42 U.S.C. Sections 12101 et seq. The electronic version shall be in a format mutually agreed upon by the publisher and the institution, but shall, after December 31, 2007, meet the National Instructional Materials Accessibility Standard adopted or utilized by the United States Department of Education.

(2) The computer files or electronic versions of the commercially published printed instructional material shall be available to students with disabilities at a cost comparable to the printed version of such commercially published material.

(c) A publisher may require that a written request for an electronic version of instructional material include a statement signed by the person described in subparagraph (a)(2)(D) of this Code section in which the person verifies that:

(1) The student for whom the electronic version of instructional material is being requested has been properly counseled in the use of the material in a manner to avoid violating any copyright laws; and

(2) The institution has on file a form signed by the student in which he or she:

(A) Agrees to use the electronic version of the instructional material solely for his or her own educational or instructional purposes; and

(B) Agrees not to copy or otherwise duplicate the electronic version of the instructional material for use by another person.

(d) If an institution allows a student, member of its staff, or member of its faculty to have direct use of an electronic version of instructional material obtained pursuant to this Code section, the institution shall take such reasonable precautions as are necessary to ensure that the electronic version is not distributed in violation of federal copyright laws.

20-3A-4.

(a) Nothing in this chapter shall be construed to prohibit an institution from assisting a student, member of its staff, or member of its faculty with a print access disability through the use of an electronic version of instructional material obtained pursuant to Code Section 20-3A-3 or by transcribing or translating or arranging for the transcription or translation of the printed instructional material into formats that provide persons with print access disabilities the ability to have increased independent access to printed instructional material. If such transcription or translation is made, the institution may share the transcription or translation with other students, members of the staff, or members of the faculty with print access disabilities for whom the institution is authorized to request electronic versions of instructional material.

(b) Nothing in this chapter shall be construed to allow the incurring of any cost for the acquisition of instructional material by a student with a print access disability in excess of the cost to a student who does not have a print access disability.

(c) Nothing in this chapter shall be construed to limit a faculty member's choice of textbook or other appropriate instructional material for use in a course he or she is teaching; provided, however, that a faculty member, after being made aware that a student with a print access disability is or shall be enrolled in a course of which he or she is an instructor, shall, in accordance with institution policies or guidelines, provide a person at the institution responsible for coordinating services for students with print access disabilities a list of the instructional material recommended or required for the course as soon as is feasible.

(d) Nothing in this chapter shall be construed to authorize any use of instructional material that would constitute an infringement of federal copyright laws."

SECTION 2.

This Act shall become effective on July 1, 2005.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.